UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALLIANZ GLOBAL RISKS U.S. INSURANCE COMPANY, as subrogee of Buffets Holdings, Inc., Plaintiff vs. NOVAK CONSTRUCTION COMPANY, an Illinois corporation, Defendant Third Party Plaintiff vs, RESTAURANT SPECIALTIES, INC., KIEFFER & CO., INC and AERO ELECTRIC & COMMUNICATIONS, Third Party Defendants	)	No. 07 C 7149 Judge Samuel Der-Yeghiayan

THIRD PARTY PLAINTIFF NOVAK CONSTRUCTION'S REPLY TO THIRD PARTY DEFENDANT, KIEFFER & CO., INC.'S AFFIRMATIVE DEFENSES

NOW COMES Third Party Plaintiff, NOVAK CONSTRUCTION COMPANY, by and through one of its attorneys, Timothy R. Couture of Johnson & Bell, Ltd., and for its reply to the Affirmative Defenses of Third Party Defendant, KIEFFER & CO., INC., states s follows:

REPLY TO FIRST AFFIRMATIVE DEFENSE

Third Party Plaintiff Novak Construction Company denies that it was at fault in any amount whatsoever for the damages alleged by Plaintiff, denies that its comparative or contributory fault was more than 50% of the proximate cause of said damages, and therefore denies that it is barred from recovering damages from Third Party Defendant, KIEFFER & CO., INC.

REPLY TO SECOND AFFIRMATIVE DEFENSE

As KIEFFER & CO., INC.'s Second Affirmative Defense does not state a true affirmative defense, but instead states a legal conclusion, Third Party Plaintiff makes no reply thereto. In the event that Third Party Defendant's Second Affirmative Defense is deemed to state a proper Affirmative Defense, said Affirmative Defense is denied.

REPLY TO THIRD AFFIRMATIVE DEFENSE

As KIEFFER & CO., INC.'s Third Affirmative Defense does not state a true affirmative defense, but instead states a legal conclusion, Third Party Plaintiff makes no reply thereto. In the event that Third Party Defendant's Third Affirmative Defense is deemed to state a proper Affirmative Defense, said Affirmative Defense is denied.

REPLY TO FOURTH AFFIRMATIVE DEFENSE

Third Party Plaintiff, NOVAK CONSTRUCTION denies Third Party Defendant KIEFFER & CO., INC., Fourth Affirmative Defense.

REPLY TO FIFTH AFFIRMATIVE DEFENSE

Third Party Plaintiff, NOVAK CONSTRUCTION denies the Fifth Affirmative Defense of Third Party Defendant KIEFFER & CO., INC., as pled against it. Third Party Plaintiff, NOVAK CONSTRUCTION CO. admits that Plaintiff and/or Plaintiff's subrogor failed to properly mitigate their damages.

Respectfully submitted,

s/Timothy R. Couture
One of the attorneys for defendant
NOVAK CONSTRUCTION COMPANY

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